IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1061 OF 2007
IN
CRIMINAL APPEAL NO.576 OF 2007

Naresh Karansingh Lukkad & Anr. .. Applicants
V/s
The State of Maharashtra .. Respondents

Mr.Maheen Pradhan for the Applicants.
Mr.A.R.Patil, APP for Respondents.

CORAM : DR.S.RADHAKRISHNAN, & A.A.SAYED, JJ.

DATE : 14th September, 2007.

P.C.:

1. Heard the learned Counsel for the Applicants and the learned APP for the State. By this application, the Applicants are seeking bail. So far as the Appeal filed by the State against acquittal is concerned, the said Appeal has already been admitted, with regard to the acquittal for the offences punishable u/s.449, 302, 342 read with section 34, 354 and 506(II) of the Indian Penal Code.

2. We have perused the order of the learned Sessions Judge. It appears that pursuant to our directions under Sectiion 390 of the Code of Criminal Procedure Code, both the Applicants were arrested. It appears that the bail application preferred by both the Applicants has been rejected by the learned Sessions Judge by an order dated 13th September, 2007.

3. The learned Counsel for the Applicants has brought

to our notice the judgment of the Andhra Pradesh High Court in the case of **Shaikh Mullapalli Shamshad Begum and Others V/s.Public Prosecutor - 2004 CRI.L.J.3595,** wherein, in paragraph No.11 of the judgment the Andhra Pradesh High Court has dealt with the basic principle that is required to be kept in mind that the Accused persons were already subjected to trial and were found not guilty. The said paragraph No.11 reads as under:-

> "The basic principle that is always to be required to be kept in mind in such cases is that the accused were already subjected to trial and were found not guilty, and therefore, until the finding is reversed the accused are entitled for their liberty which is a constitutionally guaranteed right under Article 21. But there may be exceptional cases where such constitutionally guaranteed right of liberty is required to be deprived, but we emphasize that only in exceptional cases, where the Court comes to the conclusion that the accused are required to be remanded and not released on bail, only in such cases, order of remand should be passed and such order of remand, should be supported by reasons, clear and cogent. For such an order takes away the liberty of an accused, who was found by one Court not guilty of the offences alleged against him. The orders of remand should not be made mechanically and as a matter of rule."

4. The learned APP for the State is also not opposing the grant of bail, as both the accused have been acquitted in a full fledged trial.

5. In view of the above, both the Applicants (Accused) are directed to be released on their furnishing a bail amount in the sum of Rs.10,000/- each (Rs.Ten Thousand each) and two sureties in the like amount before the

Trial Court.

6. Both the Applicants shall report to the Bandra-Kurla Complex Police Station on first Monday of every month during the pendency of their Appeal.

7. Criminal Application No.1061 of 2007 stands disposed of in terms of the above.

(A.A.SAYED, J.) **(DR.S.RADHAKRISHNAN, J.)**